

ESTTA Tracking number: **ESTTA24132**

Filing date: **01/21/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

<b>Proceeding</b>	91119510
<b>Party</b>	Plaintiff GUESS?, INC. ,
<b>Correspondence Address</b>	MICHAEL J MACDERMOTT CHRISTIE PARKER & HALE PO BOX 7068 PASADENA, CA 91109
<b>Submission</b>	Motion to Amend Pleading/Amended Pleading
<b>Filer's Name</b>	Michael J. MacDermott
<b>Filer's e-mail</b>	pto@cph.com
<b>Signature</b>	/Michael J. MacDermott/
<b>Date</b>	01/21/2005
<b>Attachments</b>	Amended Notice of Opposition.pdf ( 6 pages )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application **Serial No. 75/660,655**  
For the mark **GUESTV AND DESIGN**  
Published in the Trademark *Official Gazette* on February 1, 2000

Guess?, Inc.	
	Opposer,
v.	
Dirk N. Rockhold	
	Applicant.

Opposition No. 91119510

AMENDED NOTICE OF OPPOSITION

Opposer Guess?, Inc., a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 1444 South Alameda Street, Los Angeles, California 90021 (hereinafter referred to as "opposer"), believes that it will be damaged by registration of the mark GUESTV and Design shown in Serial No. **75/660,655**, filed March 15, 1999 by applicant Dirk N. Rockhold (hereinafter "applicant") and hereby opposes the same in all classes, namely Class 9.

As grounds for opposition, it is alleged that:

1. Applicant Dirk N. Rockhold seeks to register 75/660,655 as a trademark for PREPARING AUDIO-VIDEO PRESENTATIONS FOR USE IN ADVERTISING IN THE LODGING INDUSTRY, in International Class 9, claiming a bona fide intention to use the mark, as evidenced by the publication of said mark in the *Official Gazette* on page TM 258 of the February 1, 2000 issue.

2. Since prior to applicant's priority filing date, opposer, its predecessor and their related companies (hereinafter referred to as "opposer") have been continuously engaged in the manufacture and sale of a wide variety of consumer goods and services.

3. Since prior to applicant's priority date herein, opposer has continuously and extensively used in commerce in the United States the mark GUESS, alone and in combination with other terms and designs, including a triangle design (hereinafter "the GUESS Marks") for a wide variety of consumer goods and services.

4. Opposer is the owner of Registration No. 1,271,896 of the mark GUESS? and Triangle Design, issued March 27, 1984 for men's and women's pants and jumpsuits, and women's blouses, skirts, shorts, vests, jackets and dresses. Said registration is valid and subsisting and has become incontestable under the provisions of Section 15 of the Trademark Act.

5. Opposer is the owner of Registration No. 1,465,363 of the Mark GUESS? and Triangle Design, issued November 17, 1987 for clocks and watches. Said registration is valid and subsisting and has become incontestable under the provisions of Section 15 of the Trademark Act.

6. Opposer is the owner of Registration No. 1,712,645 of the Mark GUESS? and Triangle Design, issued September 1, 1992 for telephones, telephone answering machines, audio cassette tape records, audio cassette tape players, compact disk players, radios, stereo tuners, turntables, loudspeakers, equalizers, sound amplifiers, calculators, televisions, video cassette recorders, lenses, sunglasses, eyeglass frames and eyeglass cases. Said registration is valid and subsisting and has become incontestable under the provisions of Section 15 of the Trademark Act.

7. Opposer is the owner of Registration No. 2,086,838 of the mark GUESS HOME COLLECTION, issued August 12, 1997 for potpourri, toilet soaps, and bath beads, candles, home furniture, picture frames, bedside tables, mirrors, jewelry boxes not of metal, fabric covered benches, wall hooks of wood and other material for robes, decorative pillows, neck roll pillows, bath towel holders, soap holders; drinking glass holders; toilet paper holders, tissue

boxes, trash cans, serving trays not of precious metal; towel rings, towel bars, napkin holders and potpourri holders, bed sheets, pillow cases, pillow shams, bed skirts, comforters, bed blankets, comforter and blanket covers, shower curtains, tablecloths not of paper, textile napkins, textile placemats, hand towels, bath towels, bath sheets, beach towels, wash cloths, washing mitts, bath washing mitts, textile bath mats, pot holders, tea cozies, shower caps, aprons, robes and pajamas, decorative rugs and retail stores in the field of home furnishings. Said registration is valid and subsisting.

8. Opposer is the owner of Registration No. 2,309,468 of the mark GUESS?, issued January 18, 2000 for eyeglass frames, sunglasses, eyeglass cases, eyeglass chains, watches, clocks, jewelry, bracelets, earrings, cuff-links, tie clips, stationery and school supplies, namely, binders, notebooks, composition books, file folders, note pads, pencil holders, agenda/day planners, photo albums, envelopes and writing paper, index books, agendas, open portfolio covers for stationery type portfolios and calendars, note jotters, book bags, backpacks, handbags, wallets, tri-fold billfolds, hip-fold billfolds, credit card cases, credit card money folds, travel kit bags sold empty, luggage, purses, coin purses, cosmetic cases, tote bags, carry-on tote bags, briefcases, travel bags, duffel bags, cloth shopping bags, and small leather articles, namely, key cases, tie cases and key fobs, full line of men's, women's, boys', girls', children's and infant's apparel, namely, underwear, footwear, swimwear, caps, headwear, aprons, robes, pajamas, hosiery, gloves, suspenders, belts, neckties, women's panties, bras, tank tops, crop tops, bustiers, camisoles, tap pants, teddies, men's briefs, boxer shorts, under shirts, socks, shirts, t-shirts, sweatpants, sweatshirts, knit tops, skirts, pants, trousers, shorts, sweaters, jeans, vests, coats, jackets, overalls, blazers, dresses, scarves, blouses, cardigans, gowns, golf shirts, jogging suits, turtlenecks, suits, and polo shirts, buttons for clothing, retail store services in the field of apparel and accessories, and, home furnishings, providing on-line pricing and descriptive information relating to applicant's products, and providing an on-line photographic gallery. Said registration is valid and subsisting.

9. Opposer's GUESS Marks have acquired a valuable goodwill and reputation identifying opposer as the source of its goods and services.

10. The goods for which the applicant seeks to register the mark GUESTV and Design, namely, preparing audio-video presentations for use in advertising in the lodging industry, are closely related to opposer's goods and services sold under the GUESS Marks since a date prior to applicant's priority date herein.

11. Opposer is informed and believes that applicant and its predecessor were aware of applicant's use of the trade name GUESS and the GUESS Marks prior to the filing of the application opposed herein.

12. The mark GUESTV and Design, which applicant seeks to register, so resembles opposer's GUESS Marks, previously registered by opposer and not abandoned, as to be likely, when applied to the goods of applicant, to cause confusion, or to cause mistake, or to deceive. Applicant's mark would be perceived by purchasers as GUESS TV or GUESS TELEVISION.

13. Applicant's mark GUESTV and Design so resembles opposer's GUESS Marks, previously used in commerce by opposer, and not abandoned, as to be likely, when applied to the goods of applicant, to cause confusion, or to cause mistake or to deceive.

14. Opposer is informed and believes that applicant did not use the mark GUESTV and Design for prior to its filing date of March 15, 1999.

15. Opposer is informed and believes that applicant has not to date used the mark GUESTV and Design for the services in Serial No. 75/660,655.

16. On or about June 24, 2002, Opposer and Applicant entered into an agreement for settlement of the opposition whereby the applicant would either amend his mark or withdraw the pending application, but in either case, would not use the mark as filed.

17. The Trademark Board has denied applicant's application to amend the mark and applicant has failed to withdraw his application as provided in the agreement between the parties. The continued prosecution of this application is in breach of the agreement between the parties and is damaging to the trademark rights of Opposer.

18. Applicant's agreement not to use the mark as filed constitutes an abandonment of the mark in Serial No. 75/660,655.

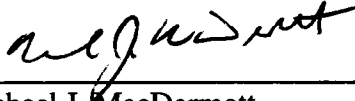
19. Opposer would be damaged by the issuance to applicant of a registration of the mark GUESTV and Design for the goods set forth in Serial No. 75/660,655.

WHEREFORE, opposer prays that this opposition be sustained and that the registration of Application Serial No. 75/660,655 be refused.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date January 21, 2005

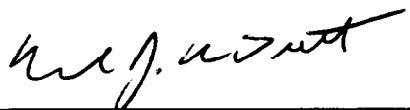
By   
Michael J. MacDermott  
Attorneys for Opposer  
P.O. Box 7068  
Pasadena, California 91109-7068  
626/795-9900

MM/edb

**CERTIFICATE OF SERVICE**

I hereby certify that on January 21, 2005, the foregoing **AMENDED NOTICE OF OPPOSITION** is being served by mailing a copy thereof by first-class mail addressed to:

John E. Cepican, Esq.  
STURM & FIX LLP  
101 West Second Street  
Suite 304  
Davenport, Iowa 52801-1813

By   
\_\_\_\_\_  
Michael J. MacDermott  
Christie, Parker & Hale, LLP  
P.O. Box 7068  
Pasadena, CA 91109-7068

EDB PAS603748.1-\* -01/21/05 2:51 PM